

12:12PM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:22-cr-86 (LJV)

1:24-cr-31 (LJV)

vs.

May 29, 2024

JUSTIN HALL,

Defendant.

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY

BY: GARRETT S. FITZSIMMONS, ESQ.

Assistant United States Attorney

138 Delaware Avenue

Federal Centre

Buffalo, New York 14203

For the Plaintiff

LIPSITZ GREEN SCIME CAMBRIA LLP

BY: BARRY NELSON COVERT, ESQ.

42 Delaware Avenue

Suite 120

Buffalo, New York 14203

For the Defendant

PRESENT:

APRIL L. KELLY, USA Paralegal

PROBATION:

LISA B. FERRARO, USPO

COURT DEPUTY CLERK:

COLLEEN M. DEMMA

COURT REPORTER:

ANN MEISSNER SAWYER, FCRR, RPR, CRR

Robert H. Jackson Courthouse

2 Niagara Square

Buffalo, New York 14202

Ann_Sawyer@nywd.uscourts.gov

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(Proceedings commenced at 12:30 p.m.)

THE CLERK: All rise. United States District Court for the Western District of New York is now in session, the Honorable Lawrence J. Vilaro presiding.

THE COURT: Please be seated.

THE CLERK: 22-CR-86 and 24-CR-31, United States of America versus Justin Hall.

Assistant United States Attorney Garrett Fitzsimmons, and paralegal April Kelly, appearing on behalf of the government.

Attorney Barry Covert appearing with defendant. Defendant is present.

Also present is U.S. Probation Officer Lisa Ferraro.

This is the date set for sentencing.

THE COURT: Good afternoon, everybody.

ALL PARTIES: Good afternoon, Your Honor.

THE COURT: Mr. Hall is before the Court for sentencing on his previous pleas of guilty to Count 1 of the superseding indictment in Western District of New York, 22-CR-86, charging that he possessed a firearm when he was prohibited from doing so because he had a prior domestic violence criminal conviction in violation of Title 18, United States Code, Section 922(g)(9) and 924(a)(2), and Count 1 of the indictment in the District of Nevada, 22-CR-32, transferred to this district as 24-CR-31, and that also

1 charged that he possessed a firearm when he was prohibited
2 from doing so because he had a prior domestic violence
3 criminal conviction in violation of 18, United States Code,
4 Section 922(g)(9) and 924(a)(2).

5 We're going to begin with some questions that I have
6 for the lawyers and for you, Mr. Hall, about the presentence
7 investigation report.

8 I then am going to make sure that I've received and
9 read all the sentencing-related submissions.

10 After that, I plan to make some findings of fact and
11 calculate the applicable sentencing guidelines range. And
12 then before I state the sentence, I'm going to give the
13 lawyers and you an opportunity to talk to me about anything
14 anyone thinks is relevant to sentencing.

15 So are there any questions before we begin from the
16 government?

17 MR. FITZSIMMONS: No, Your Honor.

18 THE COURT: From the defense?

19 MR. COVERT: No, Your Honor.

20 THE COURT: Mr. Covert, have you had enough time to
21 read the presentence report prepared on April 10th, 2024,
22 revised on April 26th, 2024, and finally revised and filed
23 April 29, 2024, and to review it with your client?

24 MR. COVERT: I have.

25 THE COURT: And, Ms. Ferraro, there were no revisions

1 or updates to the presentence report that was filed on
2 April 29th, 2024; is that correct?

3 USPO FERRARO: That's correct, Your Honor.

4 THE COURT: Mr. Covert, did you explain the contents
5 of the report to Mr. Hall?

6 MR. COVERT: We did.

7 THE COURT: Do you have any concerns about his
8 ability to understand it?

9 MR. COVERT: None at all.

10 THE COURT: Mr. Hall, did you receive a copy of the
11 presentence report prepared on April 10th, revised on
12 April 26th, and then finally revised and filed on April 29th,
13 2024.

14 THE DEFENDANT: I did, sir.

15 THE COURT: Did your attorney explain it to you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand it?

18 THE DEFENDANT: Fully.

19 THE COURT: Do you have any questions about it?

20 THE DEFENDANT: No, sir.

21 THE COURT: Do you need more time to talk to
22 Mr. Covert about it or to read it?

23 THE DEFENDANT: No, sir.

24 THE COURT: Okay. Mr. Covert, do you want to contest
25 or change anything in the report?

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MR. COVERT: No.

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THE COURT: And that includes both the facts and the

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guideline calculation, correct?

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MR. COVERT: That's correct.

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THE COURT: Mr. Hall, do you want to contest or

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change in anything in the report?

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THE DEFENDANT: No, sir.

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THE COURT: And, Mr. Fitzsimmons, does the government

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want to contest or change anything in the report?

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MR. FITZSIMMONS: No, Your Honor.

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THE COURT: And that includes both the facts and the

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guideline calculation, correct?

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MR. FITZSIMMONS: Correct.

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THE COURT: Mr. Covert, I've received and reviewed

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the defendant's statement with respect to sentencing factors,

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and the defendant's sentencing memorandum, that attached:

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His letter to the Court;

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It attached a 2017 domestic violence judgment of

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conviction and order from the Court from Virginia Township,

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Nevada;

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An annotated version of the indictment in United

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States versus Hall in the District of Nevada;

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A 2016 letter from Amanda Barrow, indicating that she

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did not have a domestic dispute with Mr. Hall;

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Mr. Hall's 2024 certificate of graduation from the

1 Cattaraugus County Action Inside/Out Dads and Money Smarts
2 program; and

3 A legal document that was sealed by Mr. Hall and
4 Russell J. Gould.

5 And then letters written on Mr. Hall's behalf by:
6 Barbara Restad, his aunt;
7 Gordon Gray, who's known him for 20 years;
8 Aaron Resavage, who's known him for a couple years;
9 Sheri Van Ness, who's known him for many years;
10 Tawnya MacLeod, who's also known him for many years.

11 And then there was also a letter from Monica
12 Goncalves. Was that -- was that intentionally attached to
13 this?

14 MR. COVERT: Yes.

15 THE COURT: Tell me why that -- what the connection
16 of that is.

17 MR. COVERT: I believe that that's the letter that
18 explains the issues in relation to Tawnya MacLeod's son that
19 Tawnya MacLeod would like my client to be present and assist
20 her in raising that child because he has those issues, is my
21 understanding of it, Your Honor.

22 THE COURT: Oh, okay. I see. Okay. Okay. Yeah.
23 This is the child who Ms. MacLeod was with her in
24 Massachusetts?

25 MR. COVERT: In Marlboro, Massachusetts.

12:35PM 1 THE COURT: Got it.

12:35PM 2 MR. COVERT: Correct, Your Honor.

12:35PM 3 THE COURT: Now I understand.

12:35PM 4 MR. COVERT: Sorry for any confusion.

12:35PM 5 THE COURT: No, no, that's okay. I read it, and it

12:35PM 6 just didn't register with me, but --

12:35PM 7 MR. COVERT: Same when I read it.

12:35PM 8 THE COURT: When I look at it again, and I see the

12:36PM 9 name Tawnya MacLeod --

12:36PM 10 MR. COVERT: And the red paper doesn't help.

12:36PM 11 THE COURT: Well, I was able to read it. I was able

12:36PM 12 to read it. So, okay. So, is that everything?

12:36PM 13 MR. COVERT: It is, Your Honor.

12:36PM 14 THE COURT: And is there anything else you'd like to

12:36PM 15 submit in writing?

12:36PM 16 MR. COVERT: No, Your Honor.

12:36PM 17 THE COURT: Mr. Fitzsimmons, I've received the

12:36PM 18 government's statement with respect to sentencing factors, and

12:36PM 19 its memorandum of law in opposition to Mr. Hall's sentencing

12:36PM 20 submissions, with attachments A through J; is that everything?

12:36PM 21 MR. FITZSIMMONS: Yes, Your Honor.

12:36PM 22 THE COURT: There anything else the government would

12:36PM 23 like to submit in writing?

12:36PM 24 MR. FITZSIMMONS: No, Your Honor.

12:36PM 25 THE COURT: Finally, consistent with Federal Rule of

1 Criminal Procedure 32(e)(3) as interpreted by the D.C. Circuit
2 in McIlwain, have both sides been given access to the sealed
3 sentencing recommendation that was filed on May 15th, 2024?
4 Mr. Covert?

5 MR. COVERT: Yes, Your Honor.

6 THE COURT: Mr. Fitzsimmons?

7 MR. FITZSIMMONS: Yes.

8 THE COURT: I previously accepted the defendant's
9 pleas of guilty to Count 1 of the superseding indictment in
10 Western District of New York 22-CR-86, as well as Count 1 of
11 the indictment in the District of Nevada 22-CR-32, transferred
12 to this District as 24-CR-31, each charging that he possessed
13 a firearm when he was prohibited from doing so because he had
14 a prior domestic violence conviction in violence -- a prior
15 domestic violence criminal conviction in violation of
16 Title 18, United States Code, Section 922(g)(9) and 924(a)(2).

17 At that time, I deferred acceptance of the plea
18 agreement. I now accept the terms and conditions of the plea
19 agreement that was signed on February 16th, 2024, and the
20 judgment and sentence will be consistent with it.

21 I note that in the plea agreement, the government
22 agreed to move to dismiss the open count of the indictment
23 pending against the defendant in 22-CR-86. So I also find
24 that the charges to which the defendant pleaded guilty, that
25 is Count 1 of each of the indictments, adequately reflects the

1 seriousness of the actual offense behavior, and that accepting
2 the agreement will not undermine the statutory purposes of
3 sentencing or the guidelines.

4 The dismissed count involves the transportation of
5 firearms and ammunition in the Western District of New York
6 case while the defendant was charged in Nevada, and all the
7 conduct involved in that count is accounted for in the
8 guidelines calculation. So the plea agreement is consistent
9 with both the guidelines and the statutory purposes of
10 sentencing.

11 The defendant and the government have both filed
12 statements with respect to sentencing factors, and both have
13 accepted the United States Probation and Pretrial Service
14 Office's presentence report.

15 Based on the parties' submissions and representations
16 today in court, there are no disputes about the facts included
17 in the presentence report.

18 I've reviewed that report as well. Based on my
19 review, based on the written submissions, and based on the
20 positions taken on the record today, I adopt the facts in the
21 report as my findings of fact, and I incorporate them into the
22 record.

23 I will now place the presentence investigation report
24 filed on April 29th, 2024, in the record under seal. If an
25 appeal is filed, counsel on appeal will be given access to

12:39PM 1 that sealed report.

12:39PM 2 So let's turn to the guidelines which I must
12:39PM 3 calculate and consider as an important part of my
12:39PM 4 determination of a sentence. And I apologize to everyone for
12:39PM 5 the very technical nature of what's about to follow, but the
12:39PM 6 guidelines and the reasons behind the guidelines make this a
12:39PM 7 necessary step in the process.

12:39PM 8 Based on the parties' submissions, and based on their
12:39PM 9 representations today in court, there also are no disputes
12:39PM 10 regarding the recommendations in the presentence report as to
12:39PM 11 the applicable sections of the Sentencing Commission's
12:39PM 12 advisory guidelines or the computation of those guidelines.

12:39PM 13 The presentence report calculates under the 2023
12:39PM 14 version of the guidelines manual, first, that counts are
12:39PM 15 grouped together under 3D1.2(d). And then, because the
12:39PM 16 offense with the higher offense level involved a semiautomatic
12:39PM 17 firearm that was capable of accepting a large-capacity
12:39PM 18 magazine, and because large-capacity magazines were found near
12:39PM 19 the ARM A-15 rifle, Section 2K2.1(a)(4)(B) provides for a base
12:40PM 20 offense level of 20.

12:40PM 21 The presentence report then recommends that the
12:40PM 22 offense level be increased by two levels under 2K2.1(b)(1)(A)
12:40PM 23 of the guidelines, because the offense involved between three
12:40PM 24 and seven firearms, here four firearms.

12:40PM 25 20, plus 2, gets us to 22.

1 The presentence report then recommends that the
2 offense level be decreased by two levels under 3E1.1(a) of the
3 guidelines because the defendant has accepted responsibility
4 for his conduct.

5 And in its statement with respect to sentencing
6 factors, the government has moved for an additional one-level
7 decrease of the offense level under 3E1.1(b). I grant that
8 motion by the government.

9 So based on all that, the presentence report
10 calculates the total offense level to be 19. 22, minus 2,
11 minus 1, is 19.

12 The report calculates the criminal history category
13 of the defendant to be Category I based on a criminal history
14 score of 1. Based on my factual findings, I agree with those
15 calculations of both the offense level and the criminal
16 history category.

17 So with a total offense level of 19, and a criminal
18 history category of I, the presentence report calculates the
19 guidelines range as a sentence of imprisonment of 30 to 37
20 months, a fine range of \$10,000 to \$100,000, supervised
21 release of one to three years, and a mandatory special
22 assessment of \$100 that I must impose. I agree with all those
23 calculations, as well.

24 Mr. Hall, in the Supreme Court's decision in United
25 States versus Booker and the 2nd Circuit's decision in United

1 States versus Crosby, I must consider the guidelines but I'm
2 not bound by them. I also must consider the factors in 18,
3 United States Code, Section 3553(a). Those factors include
4 the nature and the circumstances of the offense; your history
5 and characteristics; the need for the sentence to reflect the
6 seriousness of the offense, to promote respect for the law,
7 and to provide a fair punishment to you; the need to deter
8 others from committing crimes and to protect the public from
9 your crimes; the need to provide you with educational or
10 vocational training in an attempt to rehabilitate you; the
11 types of sentences that are available; any policy statements
12 issued by the Sentencing Commission; and sentences given to
13 others who committed crimes similar to the one to which you
14 pleaded guilty.

15 I plan to take all those factors into account when I
16 impose sentence, but before I do, I want to give the lawyers
17 and you a chance to talk to me about anything anyone thinks is
18 relevant. So we're going to start with the government.

19 Mr. Fitzsimmons, does the government want to make any
20 remarks?

21 MR. FITZSIMMONS: Yes, Your Honor. May I use the
22 podium?

23 THE COURT: You may.

24 MR. FITZSIMMONS: Your Honor, in our system of
25 government, no one is above the law; not myself, not

1 Your Honor, not members of law enforcement, and not the
2 defendant.

3 The Department of Justice, with the authority vested
4 to it by the Executive Branch, is entrusted to meet the
5 Constitution's solemn commands to take care that the laws of
6 the United States are faithfully executed. One of those laws
7 is Title 18, United States Code, Section 922(g)(9), which
8 prohibits the possession of firearms by individuals previously
9 convicted of a domestic violence crime.

10 The defendant has twice violated that statute, and
11 has now admitted to doing so by possessing numerous firearms
12 and scores of ammunition. Yet despite those admissions, the
13 defendant continues to declare that he is above the law, even
14 after his plea of guilty.

15 He contends that his self-declared status as a
16 sovereign national strips this Court of its authority to do
17 its own -- to perform its own constitutional function, to
18 interpret and apply the laws of the United States.

19 He has called this Court a fraud. He has called this
20 Court part of a two-tiered justice system that is bent on
21 prosecuting him.

22 To be clear, the defendant is not here because the
23 government, law enforcement, or this Court, are out to impress
24 him. The defendant is here because he committed serious
25 violations of federal law, and he is not entitled to act with

1 impunity.

2 THE COURT: Let me ask you this. And I understand
3 your argument, and your argument resonates with me. I get
4 that. I get the fact that Mr. Hall has basically said on a
5 number of occasions that he doesn't think this law applies to
6 him, and that it violates his right under the Second Amendment
7 and those kinds of things. We're not going to change his
8 mind. He -- he -- he believes that, and I believe that he
9 firmly believes that. We're not going to change his mind.

10 And what we're talking about between your
11 recommendation and Mr. Covert's recommendation -- I'm going to
12 ask Mr. Covert the same question -- is a relatively short, I
13 mean, it's not even relatively short, it is very short. He
14 may -- he may qualify for release, if I give him 30 months, he
15 may qualify for release next week. So tell me, what -- what
16 is it about the 30 months? What is it about the fact that the
17 guidelines somewhat artificially picked 30 months at the low
18 end for this that's so important to you?

19 And I'm going to ask Mr. Covert the same question
20 with respect to what he's asking for, which is time served.

21 Because I think my goal here has to be, given the
22 fact that we're not talking about much time, my goal here has
23 to be to impose a sentence that sends the right message to
24 Mr. Hall, to society, to everyone, it's not just to him,
25 it's -- it's a message that I want to send from here to

12:45PM 1 everyone.

12:45PM 2 And Mr. Hall and I have disagreed any number of
12:45PM 3 times. But over the past few months, we've come, I think, to
12:46PM 4 an agreement, and some mutual respect for each other.

12:46PM 5 THE DEFENDANT: Yes, sir.

12:46PM 6 THE COURT: I think that that's been very clear from
12:46PM 7 the change in his demeanor and the change in his attitude. So
12:46PM 8 tell me what's so important about the 30 months.

12:46PM 9 MR. FITZSIMMONS: Sure, Your Honor. Part of it is --
12:46PM 10 are the principles that are at stake here. And like you said,
12:46PM 11 this will send a message both to the defendant and to the
12:46PM 12 broader community.

12:46PM 13 But I will first address the last comment that you
12:46PM 14 made, that Mr. Hall seems to have made some progress
12:46PM 15 throughout these court proceedings from where he was on
12:46PM 16 September 8th, where he was threatening the Court with a
12:46PM 17 military tribunal, to his guilty plea.

12:46PM 18 What is important to the government was the letter he
12:46PM 19 submitted after he had that plea of guilty in which he then
12:46PM 20 calls our entire justice system a two-tiered system of justice
12:46PM 21 that is bent on persecuting him, and has called this Court a
12:46PM 22 fraud, and this Court and these proceedings a miscarriage of
12:46PM 23 justice.

12:46PM 24 So that -- the progress that appeared to have been
12:46PM 25 made at the last in-person proceeding in terms of his guilty

1 plea seems to have gone -- we have taken a step backwards.

2 And so that disposition, his attitude towards this Court,

3 towards the judicial institution, towards the criminal justice

4 system in general, weighs against a lower guideline -- or,

5 sorry, a below-guideline sentence.

6 But that is also one of many factors that I will sort

7 of get into, because that is sort of part of his history and

8 characteristics, but the nature of the offenses here are also

9 very serious, and so I would like to --

10 THE COURT: I don't disagree with that.

11 MR. FITZSIMMONS: -- I'd like to walk through those

12 as well --

13 THE COURT: Go ahead.

14 MR. FITZSIMMONS: -- because 30 months is the low end

15 of the guidelines, which the government has agreed not to

16 object to, but the government feels is fair even considering

17 all the progress the defendant has made, and some of the

18 more -- and his sympathetic back story --

19 THE COURT: And, by the way, Ms. Ferraro, I recognize

20 that probation has recommended a sentence at the high end of

21 the guidelines, and I am not discounting that, either. I

22 don't want you to think that I'm simply deciding between the

23 two recommendations and the lawyers, I'm considering

24 probation's recommendation as well.

25 So go ahead, Mr. Fitzsimmons.

1 MR. FITZSIMMONS: Sure. So let me turn to the
2 sentencing factors. The three considerations that I want to
3 focus on today are the gravity of the offenses, his history
4 and characteristics, and the need for this sentence to promote
5 respect for the rule of law.

6 First, seriousness. The defendant was caught with an
7 AR-15-style rifle, a scoped rifle with a bipod mount, and a
8 shotgun concealed in guitar cases.

9 In addition, the defendant possessed over 1,200
10 rounds of firearm ammunition. 1,200 rounds.

11 THE COURT: Were all the -- all of the firearms
12 concealed? Were they all in guitar cases?

13 MR. FITZSIMMONS: All of the -- the three firearms,
14 there was an additional -- a fourth firearm, that was an older
15 firearm, that was not subject to these proceedings that I
16 don't believe was concealed. All three firearms were found in
17 cases, two of which were very clearly guitar cases, one of
18 which also appears to be a guitar case but was not fully
19 clear.

20 The defendant possessed body armor, a helmet, a
21 knife, and an axe. He also possessed items and symbols
22 espousing antigovernment views. In his interview, the
23 defendant stated that he had these weapons -- firearms and
24 weapons to defend himself from people he believed to be coming
25 after him in Nevada.

1 Firearms concealed in guitar cases are not consistent
2 with that defensive use. 1,200 rounds of ammunition are not
3 consistent with that defensive use. A scoped rifle with a
4 bipod mount, a mount designed to permit a shooter to fire
5 accurately while down in a prone position are not consistent
6 with defensive use.

7 Also in his interview, the defendant proclaimed a
8 desire to do violence to people who he believes have wronged
9 him. He joked about how he can't just get into Ghillie suit
10 and shoot people.

11 The Court may already know what a Ghillie suit is
12 but, for the record, it is a form of camouflage clothing, a
13 full suit which allows snipers and hunters to hide in foliage
14 to prevent detection by their target. It is primarily used
15 with a scoped rifle and a bipod stand to permit effective
16 distance shooting while lying in the prone position.

17 To be clear, the defendant stated over and over again
18 that he has never wanted to be violent. He has stated that he
19 never has been violent, and he had not violent with law
20 enforcement both times that he was arrested. But the nature
21 of the items recovered, his own statements, and the
22 antigovernment rhetoric all point to a gravely serious
23 offense.

24 One of the defendant's counter arguments that I would
25 like to address is that he attempts to minimize --

1 THE COURT: When you say it points to a gravely
2 serious offense, I get that. But, you know, keeping him in
3 jail for another three weeks, what are we accomplishing by
4 that?

5 MR. FITZSIMMONS: Your Honor, it doesn't matter if it
6 was three weeks, three days, three months. Here, I -- the
7 government believes that it is inappropriate to go below the
8 sentencing guidelines because when everything has been already
9 been factored into this including, at least from our
10 perspective, including the -- his sort of background, his
11 positive attributes as well, and 30 months the government
12 feels is more than fair to the defendant.

13 THE COURT: Are you bound by that, by the plea
14 agreement to do that?

15 MR. FITZSIMMONS: Absolutely, Your Honor.

16 THE COURT: Okay.

17 MR. FITZSIMMONS: So, one of the counter arguments
18 that defendant has made throughout these proceedings is that
19 he was not aware that he was a prohibited person at the time
20 that he possessed these firearms. That's inconsistent with
21 his own statements. When the defendant was released from his
22 2021 Nevada state case, he was released on conditions that
23 prohibited him from possessing firearms. He signed that
24 release form, colon Justin dash Andrew colon Hall. Those
25 conditions were in effect when he drove to Buffalo with the

12:51PM 1 firearms in his truck.

12:51PM 2 Second, when he was interviewed in Buffalo, the
12:51PM 3 defendant brought up his possession of these firearms, and he
12:51PM 4 didn't tell law enforcement I own these firearms legally. He
12:52PM 5 didn't tell law enforcement I used to be a prohibited person
12:52PM 6 but that two-year period is up. The defendant stated he knew
12:52PM 7 he was a prohibited person, but that he believed the
12:52PM 8 government could not infringe on his right to possess
12:52PM 9 firearms. In other words, the defendant knew he could not
12:52PM 10 possess firearms, but he believed the rules did not apply to
12:52PM 11 him.

12:52PM 12 Finally, with respect to the seriousness of the
12:52PM 13 offenses, I would like to touch on the letters that the
12:52PM 14 defendant sent to officials in relation to his Nevada state
12:52PM 15 charge.

12:52PM 16 While he remained in Nevada in 2022, help sent writs
12:52PM 17 of execution, as he calls them, to various judges,
12:52PM 18 prosecutors, and lawyers, including those on his state
12:52PM 19 criminal case. In these letters, he threatened officials with
12:52PM 20 imprisonment and death, accusing them of genocide and crimes
12:52PM 21 of humanity. He claimed that he was acting on behalf of a
12:52PM 22 court created by congress in doing so. He threatened them
12:52PM 23 with arrest by extrajudicial bounty hunters that he referred
12:52PM 24 to as "seekers." And I think importantly, to touch on one of
12:53PM 25 your earlier question to me, instead of expressing remorse for

1 sending these threatening letters, in his letter to the Court
2 he tells the Court that those letters are legitimate and
3 binding.

4 The firearms, the ammunition, these letters, the
5 symbols, defendant's statements, all demonstrate a
6 significantly grave set of offenses.

7 With respect to the defendant's history and
8 characteristics, the Court should consider the defendant's
9 positive attributes as well as his negative ones. I'm not
10 going to go into every single one in detail, we covered them
11 in the briefing and in the PSR. But like I started out,
12 above-the-law mentality of the defendant is the one that is
13 the most -- is the one that I'd like to focus on today.

14 At many of these court proceedings, he has declared
15 that he is above the law, and he has demanded and insisted
16 that he be immediately released. And he has threatened this
17 Court and other individuals in doing so. On September 8th, he
18 threatened people in this courtroom with an extrajudicial
19 military tribunal and called this Court and the marshals
20 criminals. He refused to be transported by the marshals on
21 one occasion. He has insulted the marshals in open court.

22 And I understand that the Court is unlikely to take
23 these insults personally, nor should it. But the defendant is
24 attacking the judicial institution. He called this Court a
25 kangaroo court because the Court did not obey his command to

1 be released immediately.

2 At the end of the day, the Court must impose a
3 sentence that, among other factors, promotes respect for the
4 rule of law. Granting the defendant's request to a
5 below-guideline sentence here, at least in the government's
6 view, is not sufficient to do so. Thank you.

7 THE COURT: There are no identifiable victims,
8 correct?

9 MR. FITZSIMMONS: No, Your Honor.

10 THE COURT: Okay. Mr. Covert?

11 MR. COVERT: Yes, Your Honor.

12 THE COURT: So in addition to addressing the
13 difference between the small difference between your request
14 and the government's request, tell me why I shouldn't impose
15 something at the high end of the guidelines, given -- there is
16 some scary stuff in the stuff that he writes to me, including
17 even the last letter that he writes to me that indicates that
18 he still doesn't believe that these laws apply to him. And I
19 believe that he -- that he sincerely holds those beliefs. I
20 don't doubt that those are sincerely-held beliefs. They scare
21 me. Those things scare me a little bit, so talk to me about
22 that.

23 MR. COVERT: Your Honor, in the time that I've gotten
24 to know Mr. Hall since I was first assigned to him, and I
25 think the Court has discussed kind of the progression and the

1 manner that he has dealt with these matters, the respect he's
2 shown for the Court, and I think that we have come a long way.

3 What I've learned about Mr. Hall is that he is a
4 great -- a man of great character and belief. He believes
5 very genuinely in what he tells the Court, what he is doing
6 here.

7 But what I've also learned is that he is not
8 alleging, or he is not threatening to himself inflict violence
9 upon anybody. There's no instance here with -- whether it's
10 the arrest in Nevada or here where he touched the weapons in a
11 way that was threatening to anybody. He allowed himself to be
12 arrested. He did not resist arrest. He --

13 THE COURT: The only episode of violence is the
14 episode with his ex-wife before they were married, which may
15 very well have been a misunderstanding --

16 MR. COVERT: Correct.

17 THE COURT: -- based on what observers saw.

18 MR. COVERT: Yeah. The Court referenced her
19 statement that she indicates that that was patrons inside the
20 bar who must have been under the influence, not understanding
21 what occurred outside the bar.

22 THE COURT: Right.

23 MR. COVERT: There were no direct witnesses, and
24 that's what led to this, and that's what led to --

25 THE COURT: Regardless, though, the plea was to a

12:56PM 1 domestic violence --

12:56PM 2 MR. COVERT: No question.

12:56PM 3 THE COURT: -- crime.

12:56PM 4 MR. COVERT: And I think that what occurred here is

12:56PM 5 that nobody explained to him the -- with due respect to the

12:57PM 6 government, there was no order -- particular order of

12:57PM 7 protection in place when Mr. Hall was arrested in Nevada in

12:57PM 8 2021 or here in 2022 in Buffalo. That two-year prohibition

12:57PM 9 was from March 2nd, I believe, of 2017, had long since

12:57PM 10 expired. He was not alleged to have possessed any weapons in

12:57PM 11 Nevada during that two-year period.

12:57PM 12 Then he began possessing weapons believing that

12:57PM 13 that -- the judge had told me, I'm allowed to possess weapons.

12:57PM 14 Why would he say only two years if I can't possess them after

12:57PM 15 two years? So he now has a genuine belief that he can possess

12:57PM 16 weapons.

12:57PM 17 He gets arrested in Nevada. He believes that

12:57PM 18 that's -- in 2021. He believes that that's a mistake, that

12:57PM 19 they should have known -- those charges were brought in state

12:57PM 20 court not federal court until the day he was arrested here.

12:57PM 21 Then they indict him in federal court there under the

12:57PM 22 922. So he was not on the road from Nevada with the belief

12:58PM 23 that he was charged in Nevada with weapon possession, and then

12:58PM 24 had them here. He was traveling across the country. There's

12:58PM 25 no allegation with respect to his arrest in Buffalo that he

1 was intending to use the weapons.

2 Even the probation report indicates because of the
3 tragedy that occurred about a week earlier in Buffalo at the
4 Tops store, that there was this heightened security nationwide
5 which led them, in our mind, to illegally have pulled his
6 vehicle over without having committed any traffic incidents
7 whatsoever, he was pulled over because of this general
8 heightened security. We made those motions, but we've
9 essentially waived them by entering into a plea to try to get
10 these cases resolved.

11 But he did not -- those weapons that he possessed
12 were not in and of themselves illegal in that they were not an
13 AR that was illegal if he been caught with it without being a
14 922 individual who was not to have weapons. He's perfectly
15 legal to have a shotgun, perfectly legal to have the rifles,
16 perfectly legal to have everything. But I know the government
17 describes all of these items that were with it as being items
18 that are indicative of -- are threatening, and that are
19 dangerous. Well, you know, weapons are dangerous, and they're
20 perfectly legal unless you're a prior felon.

21 THE COURT: But he is --

22 MR. COVERT: But he is.

23 THE COURT: -- and that's the point.

24 MR. COVERT: Yeah, he didn't -- you know, and that
25 was the point. And he's taken responsibility now even though

1 we believe that there are some very valid suppression issues
2 that we could have continued to pursue. He has taken
3 responsibility.

4 And the reason I believe, in answering the Court's
5 first question to the government, that it's not necessary to
6 have him incarcerated for another three weeks or up to the
7 high end of the guideline range as probation indicates is
8 because we've seen the changes. We've seen the respect that
9 he has. He's gonna have his beliefs.

10 You know, I'm not saying this to be a wise guy, but
11 we've got somebody who's being -- we've got a jury out today
12 in New York that's made very similar comments about the
13 legitimacy of the judiciary, and the judicial branch, and the
14 players involved. And he uses all these words. That doesn't
15 mean he's gonna be punished more because he has these beliefs.

16 Mr. Hall genuinely believes in what he has expressed
17 to the Court. And he did not, in his mind, threaten the Court
18 or anybody else when he says that you were serving the
19 environmental court documents on you, you're subject to these
20 penalties. He's not saying I'm going to incarcerate you, I'm
21 going to harm you. It's, we're serving these documents on you
22 that warn you of what the potential could be in his mind
23 because he believes that this is a legitimate court. But he
24 is not threatening to actually harm anybody, to actually take
25 any actions here. He's got legitimate beliefs, he's got an

1 absolute First Amendment right to express them.

2 And intertwined throughout the government's argument,
3 and I don't blame them for their arguments and their concern,
4 but intertwined throughout these arguments is always, well,
5 you have to look at this in light of his disrespect for the
6 judiciary or his dislike of the United States government.

7 No, you don't. You really don't.

8 THE COURT: I agree with you on that.

9 MR. COVERT: You have to separate. Otherwise, the
10 First Amendment means nothing. If I can't engage in the same
11 conduct that anybody else can legally engage in because I have
12 beliefs that are not favored by the current political system,
13 that is not --

14 THE COURT: I agree with you. I agree with you. And
15 anything he said about me, anything he said about the Court,
16 that's not going to affect us.

17 But talk to me about promoting respect about the law.
18 Talk to me about the seriousness of this offense, given the
19 fact that there was -- that there were some pretty serious
20 weapons and a whole lot of ammunition involved here.

21 MR. COVERT: Well, I think that the first sign of his
22 respect for the law is he didn't physically try prevent
23 himself from being arrested in Nevada in 2021, or here in
24 Buffalo in 2022. He did not engage in any form of trying to
25 fight off the officers.

01:02PM 1 He does believe that the system is not legitimate,
01:02PM 2 and he expressed that repeatedly, peacefully.

01:02PM 3 So, I believe that between that, and when we put
01:02PM 4 those in their proper context, and now we have a gentleman who
01:02PM 5 I believe today, and as the Court described, over the last few
01:02PM 6 months is respecting the fact that he doesn't believe that
01:02PM 7 this is legitimate, he's made that crystal clear. But he
01:02PM 8 still's respecting. He's there, he's showing up, he's not
01:02PM 9 arguing. He's still respecting the system.

01:02PM 10 He now understands that he can never have a weapon
01:03PM 11 again for the rest of his life, that what he was led to
01:03PM 12 believe in 2017 by the judge in Nevada, that he could have
01:03PM 13 them again after two years, is absolutely incorrect. And he
01:03PM 14 can never have a shotgun, rifle, pistol, anything along those
01:03PM 15 lines. And he has genuinely said to me --

01:03PM 16 And one thing I give him credit for is he has never
01:03PM 17 once lied to me. He's never misrepresented -- he's told me
01:03PM 18 what his views with are, he told me what he did, he told me
01:03PM 19 what behavior he engaged in. He did have the weapon out
01:03PM 20 there. He did have the three rifles here. He's not blaming
01:03PM 21 anybody.

01:03PM 22 Now, the rifle -- and an example of trying to paint
01:03PM 23 everything in a negative way because of his political views.
01:03PM 24 The rifles in a guitar case is a safety factor. You don't
01:03PM 25 want them, the public, to see them through windows. Having

1 them on a back seat of a vehicle is not a great idea. You put
2 them in something that can't be seen.

3 New York State just changed our laws so that if, in
4 New York State, if you have a pistol and you're going to leave
5 it in a vehicle, it has to be in a box, but hidden away, and
6 the public can't see it or it's in violation of the new
7 New York State laws.

8 This is similar in concept. It's not the exact same
9 thing. But for the safety of others, he's not advertising to
10 the world, those who might come by his vehicle in parking lot,
11 the fact that he has guns.

12 THE COURT: And if it's in a gun case, it's the same
13 thing.

14 MR. COVERT: It's the same thing.

15 New York State requires you to take that gun case and
16 put it underneath a seat, in a trunk, it has to be out of
17 view, because people would recognize a gun case and that would
18 be subject to being stolen.

19 So we can look at everything in two ways, that if he
20 were just an avid sportsman, what he did wouldn't seem
21 nefarious at all. But because he has these views, we're going
22 to hold those views against him in violation of his First
23 Amendment rights, and now characterize everything in the most
24 negative possible way.

25 And I understand that. It's the same reason he was

01:04PM 1 pulled over when Tops happened, after Tops occurred, is that,
01:05PM 2 you know, we -- we get concerned, weapons are serious matters,
01:05PM 3 the Court has repeatedly said what he pled to is to is a
01:05PM 4 serious -- are two serious offenses. There's no dispute to
01:05PM 5 that.

01:05PM 6 These are two serious offenses, and he has taken full
01:05PM 7 responsibility. And he has not taken the position he hasn't
01:05PM 8 done these things. He has taken the position I've done these
01:05PM 9 things, but I disagree with our government and our current
01:05PM 10 system. But he's still not behaving in a way that says I
01:05PM 11 shouldn't be here, I shouldn't get one more day in jail, this
01:05PM 12 is all wrong, and you have to let me out now because this is
01:05PM 13 an illegitimate system. He has never done that.

01:05PM 14 He has also been very, very concerned about his loved
01:05PM 15 ones, those around him. The Court's read all the papers.
01:05PM 16 He's gone through a very tough patch with different family
01:05PM 17 members and doesn't have access to his children. But he wants
01:05PM 18 to be able to get out as quickly as possible, as anybody would
01:05PM 19 who's in jail, of course, start assisting his girlfriend, who
01:06PM 20 they intend to get married, assist with her child.

01:06PM 21 His mother recently had a stroke. He can't do
01:06PM 22 anything from the jail to assist there.

01:06PM 23 And when it comes back to the Court question of do we
01:06PM 24 need to have a deterrent message sent by having him in jail
01:06PM 25 for a little while longer? Maybe significantly longer? I

01:06PM 1 don't think so. The message has been sent. He was arrested,
01:06PM 2 he has been in jail for over two years. Nobody from the
01:06PM 3 outside's gonna say, well, because the judge didn't give him
01:06PM 4 two years and four months, or two years and eight months, this
01:06PM 5 was not treated as a serious offense.

01:06PM 6 He's a convicted felon now. He understands he can
01:06PM 7 never possess a weapon again, he is going to suffer that.
01:06PM 8 He's going to suffer any voting losses he's going to have in
01:06PM 9 whatever state he wants to vote in. He is going to suffer
01:06PM 10 many, many harms to him.

01:06PM 11 And the deterrence factor has been to -- a message
01:07PM 12 has been sent to the community. You can't do this. You can't
01:07PM 13 have weapons that I can have, that -- he can't possess now.
01:07PM 14 He now gets that.

01:07PM 15 He's been punished for it. Over two years in jail is
01:07PM 16 pretty good punishment for having misunderstood or not
01:07PM 17 understood exactly what the laws were in relation to the
01:07PM 18 weapons. I don't see where -- what is achieved by additional
01:07PM 19 period of incarceration beyond today.

01:07PM 20 I am so impressed with how far he's come, the respect
01:07PM 21 he's shown. I don't think he'll have any issues on supervised
01:07PM 22 release. I will be shocked to get a phone call in the future
01:07PM 23 that he has an issue with that.

01:07PM 24 He is -- he is a -- I won't say a changed person
01:07PM 25 because his beliefs are his beliefs. But his -- he has

1 developed the respect for our system, and I think it's because
2 Your Honor treated him respectfully.

3 You know, I've taken a lot of time with him. And he
4 understands that our system has to be respected, and he can
5 continue having those beliefs and associating with others that
6 have those beliefs, as long as he's not violating our laws.

7 And a period of supervised release will show -- I
8 fully believe that he will do just fine on supervised release.
9 But if he can't, as the government suspects, he can't lead a
10 law-abiding life, it will show during supervised release.
11 We'll know. And the Court will have a chance to have him
12 before the Court again, and we'll find out where we go from
13 there.

14 But, you know, he is someone who really wants to
15 assist others. I think that many of the character letters are
16 just wonderful that we read, because it talks about repeatedly
17 he'll give the shirt off his back because he -- that same
18 conviction he takes to his political views, he takes to taking
19 care of those around him, to his family, to his friends, to
20 his fiancée/girlfriend that he's going to go see, committing
21 to go help her. And he is that type of a person.

22 And I don't see any -- anything of evidence that I've
23 been shown that would lead me to believe that he is not a man
24 of character. He is certainly honest. He certainly follows
25 through on what he wants, what he says he is going to do,

01:09PM 1 and -- and I think he'll do so here.

01:09PM 2 And the only -- the only reason we would question
01:09PM 3 that is because of his views. And those views, I believe, are
01:09PM 4 protected by the First Amendment and should not be taken into
01:09PM 5 account. Obviously, the Court has to take everything into
01:09PM 6 account, but those should not be used to harm him
01:09PM 7 affirmatively when he has those views, but is still willing to
01:09PM 8 be a law-abiding citizen, to respect our laws, to respect the
01:09PM 9 courtroom, to respect the judge, and he will certainly respect
01:09PM 10 being on supervised release and what he's told to do.

01:09PM 11 He had no issues in -- after he was sentenced in 2017
01:09PM 12 leading a law-abiding life, and not having weapons for two
01:09PM 13 years, so he didn't have them. But, and now he knows, he
01:09PM 14 definitely knows, I can assure the Court in every which way,
01:10PM 15 that I have made sure he understands there will never be a
01:10PM 16 weapon in his vicinity for the rest of his life, or he's
01:10PM 17 facing another set of charges, even if it's after supervised
01:10PM 18 release.

01:10PM 19 So, for those reasons, Your Honor, I really
01:10PM 20 respectfully -- I usually don't ask for it, a specific
01:10PM 21 sentence, but I believe in this case, given what he has done,
01:10PM 22 given how he has really come forward and assisted us, I don't
01:10PM 23 see any benefit to additional incarceration time, and I would
01:10PM 24 ask that the Court sentence him to time served.

01:10PM 25 THE COURT: Thank you.

01:10PM 1 MR. FITZSIMMONS: Your Honor, may I respond briefly?

01:10PM 2 THE COURT: I'm sorry?

01:10PM 3 MR. FITZSIMMONS: May I respond briefly to a couple f

01:10PM 4 points?

01:10PM 5 THE COURT: Very briefly, yeah.

01:10PM 6 MR. FITZSIMMONS: Your Honor, I --

01:10PM 7 THE COURT: I'm going to give Mr. Covert the last

01:10PM 8 word, but go ahead.

01:10PM 9 MR. FITZSIMMONS: Sure. I do -- there was a

01:10PM 10 discussion about the bail order and the -- which federal

01:10PM 11 charges, and how they all lined up, so I do want to just talk

01:10PM 12 about the timeline a little bit because it's important for his

01:10PM 13 compliance.

01:10PM 14 He was charged by the State of Nevada in 2021.

01:10PM 15 THE COURT: Okay.

01:10PM 16 MR. FITZSIMMONS: He was released by the State of

01:11PM 17 Nevada in 2021 on conditions, conditions that he signed in

01:11PM 18 2021 that he would not possess a firearm.

01:11PM 19 Even though he was not federally charged in Nevada,

01:11PM 20 while he was in Nevada -- well, the grand jury returned an

01:11PM 21 indictment, he didn't appear, he didn't know about the Nevada

01:11PM 22 federal charges until he came here, he was on those

01:11PM 23 conditions. So what was stated about, well, he still thought

01:11PM 24 that he was not a prohibited person is just not true. He had

01:11PM 25 those bail conditions in place. He made statements to law

01:11PM 1 enforcement indicating that he knew that he was a prohibited
01:11PM 2 person.

01:11PM 3 The only other thing that I wanted to mention was the
01:11PM 4 argument about the First Amendment. Obviously, the defendant
01:11PM 5 has a First Amendment right to believe what he wants to
01:11PM 6 believe, but what I take issue with is the suggestion that he
01:11PM 7 has respected the law and abided by the law even though he has
01:11PM 8 these First Amendment beliefs.

01:11PM 9 He has sent threatening letters to officials. He, in
01:11PM 10 his interview, indicated that the reason why he possessed the
01:12PM 11 firearms is that he didn't believe the law applied to him.
01:12PM 12 That is conduct. That is not a First Amendment belief. He is
01:12PM 13 acting on is beliefs by one -- he also, one, possessing the
01:12PM 14 firearms, two, leaving the State of Nevada when he had a
01:12PM 15 federal -- or, sorry, a state court, criminal court appearance
01:12PM 16 less than a week away stating that he intended not to show up
01:12PM 17 to those proceedings. Why? Because he did not believe that
01:12PM 18 the laws applied to him.

01:12PM 19 So I don't agree with the assertion that while he
01:12PM 20 just has these beliefs, he's entitled to them under the First
01:12PM 21 Amendment, but they're not affecting his ability to -- or, did
01:12PM 22 not affect his ability to respect the law and abide by the
01:12PM 23 law. There were several incidences in which those beliefs, he
01:12PM 24 acted on them inappropriately.

01:12PM 25 THE COURT: Okay. Do you want to respond to the

1 first thing he said about the fact that he signed papers in
2 Nevada in the state court prosecution saying he couldn't
3 possess a weapon, and yet came here? Isn't that inconsistent
4 with your argument --

5 MR. COVERT: Your Honor, it is. And we didn't -- you
6 know, I just went back through the government's documents, and
7 we didn't realize that he had signed an order of protection,
8 or an order that says that he cannot have a weapon. He did
9 not understand that. And whatever the flurry of what was
10 going on when he was in court and released, that box was
11 checked and he did sign it. So, we -- I do retract that.

12 THE COURT: Okay.

13 MR. COVERT: But, Your Honor, again, I think that
14 this is all centered upon -- given that we're only looking at
15 some additional time, marginal time, which is very important
16 to him because that's his free -- his -- his freedom, I don't
17 believe that anything that the government, respectfully, they
18 made very good comments, and we don't in any way mean to
19 diminish their concerns, but I don't believe that any of the
20 factors that they discussed justify any additional time beyond
21 today, because it's -- we're not talking about an extra two
22 years, an extra three years, we're talking about a time,
23 and --

24 THE COURT: That's what I'm struggling with, that's
25 exactly what I'm struggling with.

01:14PM 1 MR. COVERT: Yeah. And my understanding then is
01:14PM 2 that -- and I had to ask a much greater mind than myself,
01:14PM 3 MaryBeth, how it works if the Court does give him some
01:14PM 4 additional time. And my understanding is that he has to go
01:14PM 5 back in and then be processed by the Bureau of Prisons because
01:14PM 6 they have to actually make the determination of good time
01:14PM 7 served. Ms. Ferraro and I were dealing with trying to
01:14PM 8 calculate that today, and she even contacted the Bureau of
01:14PM 9 Prisons, and they gave her, you know, nonofficial answers but
01:14PM 10 ballparks, because it's all calculated there.

01:14PM 11 I'm really looking to avoid that. And according to,
01:14PM 12 again, Mrs. Covert, we then have to stay on top of them to try
01:14PM 13 to get them to make the decision quickly, because he may end
01:14PM 14 up being there longer than is anticipated because they don't
01:14PM 15 make a calculation and decision quickly enough.

01:14PM 16 I just don't see the need to put him through that. I
01:14PM 17 think that, you know, again, he -- he'll -- if this is -- I
01:15PM 18 don't believe that this is a change in how he's respecting the
01:15PM 19 Court based on trying to get a better sentence. I think that
01:15PM 20 I have helped and you have helped, Your Honor, get him to come
01:15PM 21 along and understand that he has to do two tiers here, he can
01:15PM 22 have his views but respect us. And beyond that now, I think
01:15PM 23 supervised release will be the acid test of whether he's
01:15PM 24 genuine in that or not.

01:15PM 25 And, again, he has never brandished the weapons here.

1 It would be a different discussion if he brandished weapons.

2 So, Your Honor, otherwise, we -- I think we've
3 exhausted the issues.

4 THE COURT: Thank you.

5 Mr. Hall, anything you would like to say? You can
6 stay seated. You can stay seated, yeah, just talk right into
7 the microphone.

8 THE DEFENDANT: Yes, sir. This has been a
9 life-changing experience for me.

10 Any of the hardships that I've had to face during
11 this have, you know, really shaken me to the core. You know,
12 I've been dealing with just the loss of time with my loved
13 ones, my children. My mom has suffered a stroke during this
14 time. I have people outside of these walls who really,
15 really, really need me to be free. And these are people who
16 are innocent, and they love me, and I love them, and they need
17 me, and I need to be free for them.

18 And I don't need to ever go back to jail for any
19 reason, not even a parking ticket. I am fully in compliance
20 with your requests and your -- the government's request to
21 just put away and leave the firearms alone. I'm fine with
22 that.

23 I have never threatened or harmed anyone in my life,
24 nor would I. I just -- I just need to be free for -- to get
25 on with my life. People are depending on me. And this is

1 very painful to be in jail this long.

2 So as far as my comments to this Court -- I
3 apologize. I apologize.

4 THE COURT: Thank you.

5 THE DEFENDANT: You know, I have only had love for my
6 country, and if it means that I have to pick up a pen to
7 change my country, then that's what I'll do. But there will
8 be no weapons involved.

9 THE COURT: Thank you. Does either counsel know of
10 any reason why sentence should not now be imposed?

11 MR. FITZSIMMONS: No, Your Honor.

12 MR. COVERT: No, Your Honor.

13 THE COURT: Pursuant to the Sentencing Reform Act of
14 1984 and the 2023 version of the sentencing guidelines, it's
15 the judgment of the Court that the defendant, Justin Hall, is
16 hereby sentenced to time served on each count to run
17 concurrent with one another. The cost of incarceration fee is
18 waived.

19 The defendant shall be placed on supervised release
20 for a term of three years on each count, again to run
21 concurrently, and the following conditions shall apply.

22 Within 72 hours, the defendant shall report in person
23 to the probation office in this district, unless his probation
24 officer instructs him differently.

25 The defendant shall comply with the standard

1 conditions of supervised release adopted by the Court.

2 The defendant shall not commit any crimes under
3 federal, state, or local law.

4 The defendant shall not possess a firearm,
5 ammunition, or any other dangerous device.

6 The defendant shall not possess a controlled
7 substance except as prescribed by a physician.

8 The defendant shall cooperate in the collection of a
9 DNA sample as required by the Justice For All Act of 2004.

10 The defendant shall participate in a program for
11 substance abuse, including substance abuse testing such as
12 urinalysis and other testing, and shall undergo a drug/alcohol
13 evaluation and treatment if substance abuse is indicated by
14 the testing. The probation officer will supervise the details
15 of any testing and treatment, including the selection of a
16 treatment provider and schedule. If inpatient treatment is
17 recommended, however, it must be approved by the Court unless
18 the defendant consents.

19 The defendant is not to leave treatment until
20 completion or as ordered by the Court. While in treatment,
21 and after discharge from treatment, the defendant is to
22 abstain from using alcohol. The defendant is required to
23 contribute to the cost of services rendered. And the
24 defendant shall abstain from the excessive use of alcohol.

25 Because this offense occurred after September 13,

1994, drug testing is required by the 1994 Crime Control Act.

And I'm imposing these conditions, and in particular the parts of these conditions in addition to the required drug testing, because of the defendant's admitted history of alcohol use, using up to six beers at a time, and in particular his 2005 conviction for driving under the influence, and his 2017 conviction for possessing a gun under the influence of alcohol or drugs. I believe that this condition therefore -- these conditions therefore serve the statutory sentencing purposes of rehabilitation and public protection.

The defendant shall submit to a search of his person, property, vehicle, place of residence, or any other property under his control based on reasonable suspicion, and shall permit confiscation of any evidence or contraband discovered.

I'm imposing this condition because the offense of conviction involved weapons and ammunition. Those can be easily hidden from law enforcement. And I believe that the condition therefore serves the statutory sentencing purposes of deterrence and public protection.

The defendant shall pay to the United States a mandatory special assessment of \$100, that's due immediately. Payment to be made to the Clerk, United States District Court, Attention Finance, United States Courthouse, 2 Niagara Square, Buffalo, New York 14202.

01:20PM 1 So, this was a tough one. In determining the
01:20PM 2 sentence, I've carefully reviewed the circumstances of the
01:20PM 3 case and the plea. I began my analysis with the guidelines.
01:20PM 4 I've considered the arguments, the excellent arguments, raised
01:20PM 5 by both sides as to what the appropriate sentence should be in
01:21PM 6 this case. And most important, I've considered the factors in
01:21PM 7 18, United States Code, Section 3553(a), which I stated
01:21PM 8 earlier and I won't repeat.

01:21PM 9 I'm not imposing a fine. I'm not imposing any costs
01:21PM 10 of imprisonment or costs of supervised release because I don't
01:21PM 11 believe you have the financial ability to make those payments,
01:21PM 12 because I think that would have a disproportionate impact on
01:21PM 13 the good people who you obviously love and who obviously love
01:21PM 14 you.

01:21PM 15 THE DEFENDANT: Thank you.

01:21PM 16 THE COURT: And because I want to set you up to
01:21PM 17 succeed now --

01:21PM 18 THE DEFENDANT: Thank you, sir.

01:21PM 19 THE COURT: -- and not to fail.

01:21PM 20 So I imposed the sentence largely because of the
01:21PM 21 requirement that I'm charged with, to impose a sentence that I
01:21PM 22 think is sufficient but not greater than necessary.

01:21PM 23 THE DEFENDANT: Thank you.

01:21PM 24 THE COURT: And I ask myself in that circumstance,
01:21PM 25 and Mr. Fitzsimmons has made some excellent arguments as to

01:21PM 1 why a low end of the guidelines sentence should be imposed.

01:21PM 2 And I can show you my notes where I say 30 months. That's

01:22PM 3 what I have in my notes. 30 months. But I ask myself, in a

01:22PM 4 case like this, he's already done almost two-and-a-half years

01:22PM 5 in jail. And what good is that -- what good is the

01:22PM 6 incremental additional time going to do to him or to deter

01:22PM 7 others?

01:22PM 8 Now, to deter others, the additional time is not

01:22PM 9 going to have any impact at all. So the question really is

01:22PM 10 the message to Mr. Hall. What message do I want to send to

01:22PM 11 Mr. Hall?

01:22PM 12 And here's the message I want to send: First of all,

01:22PM 13 this offense, as Mr. Fitzsimmons said and has Mr. Covert

01:22PM 14 conceded, is a very serious offense. It involves weapons, and

01:22PM 15 all weapons offenses are serious offenses. Shooting deaths in

01:22PM 16 this country are epidemic. It's horrible what is happening

01:23PM 17 with weapons in this country.

01:23PM 18 And while your criminal history category is a I, I

01:23PM 19 get the sense that at least when this process started, you had

01:23PM 20 the belief that you were above the law, that you didn't need

01:23PM 21 to comply with the law because of your views on the Second

01:23PM 22 Amendment, and because on your views about your being a

01:23PM 23 sovereign -- help me.

01:23PM 24 THE DEFENDANT: National.

01:23PM 25 MR. COVERT: Sovereign national.

01:23PM 1 THE COURT: Sovereign national, okay. I want to get
01:23PM 2 it right because I know language is very important to
01:23PM 3 Mr. Hall.

01:23PM 4 THE DEFENDANT: Right.

01:23PM 5 THE COURT: Being a sovereign national. So I worry
01:23PM 6 about that, and that's -- and that's what was leading me
01:23PM 7 toward imposing a sentence of 30 months.

01:23PM 8 Now as I said before, the difference between what
01:23PM 9 you're asking for and what I've imposed, time served, and the
01:23PM 10 high end of the guidelines, which was recommended by
01:24PM 11 probation, is a relatively small difference. And the
01:24PM 12 difference between what you're asking for and what I imposed,
01:24PM 13 time served, and what the government asked for, 30 months,
01:24PM 14 is -- is almost nothing.

01:24PM 15 So, how do I best send the message to you that --
01:24PM 16 what you did was a serious offense; that you're not above the
01:24PM 17 law; that there are rules that apply to everyone; and that
01:24PM 18 regardless of what you might think, there are consequences for
01:24PM 19 not following the rules -- is an incremental term, a few weeks
01:24PM 20 is really what we're talking, and I can't imagine it's more
01:24PM 21 than a month and a half. But is a month and a half going to
01:24PM 22 impress that on you?

01:24PM 23 Or, are you going to be more impressed by two things?

01:24PM 24 Number 1, the fact that you've gotten a very small
01:24PM 25 break from me --

01:24PM

1 THE DEFENDANT: Yeah.

01:24PM

2 THE COURT: -- because I respect you, and because

01:25PM

3 I've seen what progress you've made; and

01:25PM

4 Number 2, and just as important, by varying below the

01:25PM

5 guidelines, the guidelines for a violation of your release,

01:25PM

6 tell the judge who will sentence you on any violation for your

01:25PM

7 release that the judge can go above the guidelines.

01:25PM

8 If I gave you a guideline sentence, that would not be

01:25PM

9 the case. If I gave you 30 months, then if you violated, the

01:25PM

10 guidelines would be the guidelines, and the judge who would

01:25PM

11 impose a sentence for any violation of the guidelines would

01:25PM

12 have the guidelines.

01:25PM

13 In addition to that now, because I've varied very

01:25PM

14 slightly below the guidelines, the message to that judge is:

01:25PM

15 You should take into account the fact that he already got his

01:25PM

16 break and shouldn't get another break if he violates.

01:25PM

17 THE DEFENDANT: Right. Yes, sir.

01:25PM

18 THE COURT: So when I take those things together, the

01:25PM

19 amount of time that you've done already --

01:25PM

20 THE DEFENDANT: Yes, sir.

01:25PM

21 THE COURT: -- the -- the fact that I'm required to

01:26PM

22 impose a sentence that's sufficient but not greater than

01:26PM

23 necessary, the fact that I think you've gotten the message

01:26PM

24 that there are rules and if you violate the rules there are

01:26PM

25 consequences, you certainly had a consequence of serving

1 almost two-and-a-half years already, and the fact that hanging
2 over your head, for the next three years anyway, and I've
3 imposed the maximum term of supervised release that I could
4 impose, so hanging over your head for the next three years
5 will be the fact that if you violate, if you possess a weapon
6 for heaven sakes, or if you violate in any other way, the
7 judge can take into account the fact that you got a break this
8 time. And the judge should take into account the fact that
9 you got a break this time. I think that that's sufficient but
10 not greater than necessary.

11 So to recognize the nature and circumstances and
12 seriousness of the offense; taking into account your history
13 and characteristics; to promote respect for the law; to impose
14 a fair punishment; to deter others; and to send the message to
15 you that there are rules, and rules need to be followed, I
16 think that this sentence is sufficient but not greater than
17 necessary.

18 And I've imposed that maximum term of supervised
19 release to help you return to society now, to help you
20 transition back, but it's also going to allow the probation
21 office to monitor your activities and to make sure you don't
22 engage in illegal activity in the future.

23 And regardless of what you believe, and I -- as
24 Mr. Covert said, and I don't doubt that you sincerely believe
25 the things that you've said in this Court and the things that

01:27PM 1 you've written in your letters. I don't doubt that for a
01:27PM 2 second.

01:27PM 3 THE DEFENDANT: I don't deny them, sir.

01:27PM 4 THE COURT: But I want you to understand that not
01:27PM 5 everyone agrees with you. And that unfortunately for you, the
01:27PM 6 folks that hold the authority and that can impose punishment
01:28PM 7 on you don't agree with you.

01:28PM 8 Now, that doesn't mean that I don't respect you. It
01:28PM 9 doesn't even mean that I don't respect your beliefs. I
01:28PM 10 disagree with your beliefs, I disagree with what you say. But
01:28PM 11 I respect every single person that comes in this courtroom,
01:28PM 12 and I don't care what they believe, and I don't care what
01:28PM 13 they've done. I respect them as human beings.

01:28PM 14 THE DEFENDANT: I receive that, sir.

01:28PM 15 THE COURT: And I know you understand. And I know it
01:28PM 16 took a while for you to get that. But what -- what I want to
01:28PM 17 impress on you today is that while I have that respect for
01:28PM 18 you, and while I have that respect for what you believe and
01:28PM 19 that I disagree with, that doesn't give you the license to do
01:28PM 20 what you want to do, and there are going to be penalties if
01:28PM 21 you do what you want to do that the law says you can't do.

01:28PM 22 And whether you agree with that or not, and whether
01:28PM 23 you think you have to comply with it or not, I'm telling you:
01:28PM 24 You do have to comply. And if you don't, you're gonna end up
01:28PM 25 being away from your loved ones, as well.

01:28PM 1 THE DEFENDANT: Understood.

01:28PM 2 THE COURT: And I took into account those letters.

01:29PM 3 And I took into account the fact that those folks said the
01:29PM 4 things they said about you. I took into account the fact that
01:29PM 5 you think you've gotten a raw deal in the past with respect to
01:29PM 6 the legal system. I think all those things get factored into
01:29PM 7 the equation.

01:29PM 8 So, I have talked too much, and I've said too little
01:29PM 9 probably. But based on the guidelines, based on the positions
01:29PM 10 of the parties, and based on my review of all the facts and
01:29PM 11 circumstances presented to me, I believe that the sentence I
01:29PM 12 have imposed is sufficient but not greater than necessary to
01:29PM 13 comply with the purposes of sentencing in 18, United States
01:29PM 14 Code, Section 3553(a)(2).

01:29PM 15 Under Rule 32(j)(1)(B) of the Federal Rules of
01:29PM 16 Criminal Procedure, I now advise the defendant of his right to
01:29PM 17 appeal.

01:29PM 18 You have a statutory right to appeal your sentence
01:29PM 19 under certain circumstances, particularly if you think the
01:29PM 20 sentence is contrary to law.

01:29PM 21 The defendant may waive those rights as part of a
01:29PM 22 plea agreement.

01:29PM 23 And as I think you recognize, Mr. Hall, you entered
01:29PM 24 into a plea agreement in which you waived some of your rights
01:29PM 25 to appeal. Specifically, you waived your right to appeal a

1 sentence that is within or less than the guidelines range of
2 imprisonment. These waivers are generally enforceable. If
3 you believe the waiver is unenforceable, you can present that
4 theory to the appellate court.

5 If you want to attempt to appeal some issue that you
6 think survives your waiver, you must file a notice of appeal
7 within 14 days.

8 If you're unable to pay for the cost of an appeal,
9 you may apply for leave to appeal in forma pauperis, that is
10 leave to appeal without paying costs.

11 You have the right to be represented by counsel on
12 any appeal, and if you can't afford counsel, you have the
13 right to have counsel appointed to represent you free of
14 charge.

15 The forfeiture is made a part of the sentence and
16 judgment.

17 Do I need to issue a final order of forfeiture,
18 Mr. Fitzsimmons?

19 MR. FITZSIMMONS: I believe so, Your Honor.

20 THE COURT: And you'll prepare that for me?

21 MR. FITZSIMMONS: Yes, Your Honor.

22 THE COURT: Okay. Anything further from the
23 government? You have a notion motion.

24 MR. FITZSIMMONS: Yes, Your Honor. The government
25 moves to dismiss the second count of the indictment, here,

01:30PM 1 22-CR, one moment --

01:31PM 2 THE COURT: 86.

01:31PM 3 MR. FITZSIMMONS: -- 86. The second count of that
01:31PM 4 indictment, Your Honor.

01:31PM 5 THE COURT: That motion is granted.

01:31PM 6 MR. COVERT: Thank you.

01:31PM 7 THE COURT: The statement of reasons shall be
01:31PM 8 included in the judgement, and shall be provided to the
01:31PM 9 probation office and to the Sentencing Commission.

01:31PM 10 A complete copy of the presentence report shall be
01:31PM 11 provided to the probation office and to the Sentencing
01:31PM 12 Commission.

01:31PM 13 Any other copies of the report and related material
01:31PM 14 shall remain confidential.

01:31PM 15 And as I said earlier, if an appeal is taken, counsel
01:31PM 16 will be given access to the report.

01:31PM 17 A judgment of the conviction should be prepared
01:31PM 18 promptly on the form prescribed for judgments including
01:31PM 19 sentences under the Sentencing Reform Act.

01:31PM 20 Two last things that I want to say.

01:31PM 21 First of all, Mr. Fitzsimmons, I thought that your
01:31PM 22 papers that you submitted and that your remarks today were
01:31PM 23 outstanding, and I thought that they were reasonable, and I
01:31PM 24 did not think they were over the top in any way. In fact,
01:31PM 25 it's one of the finest sentencing presentations I've seen from

the government in all the time that I've been on the bench.

And I would have, if I did not think that what I'm doing sends the message to Mr. Hall, as I said, I don't think that deterrence is going to change at all whether I give 30 months or time served because it's, you know, somebody from the outside looking at this, it's not gonna make any difference at all. I think that the message to Mr. Hall is the most important thing. And I think that the sentence that I fashioned sends that message better than a 30-month sentence, especially because of the fact that the guidelines tell a sentencing judge on a violation of supervised release the judge can impose a harsher sentence under those circumstances. And so I think the message is sent that way.

But I don't want you to think that in any way I did not really consider and take to heart what you said, because it was, I thought, an outstanding presentation.

And, Mr. Covert, obviously, you've done a fabulous job for Mr. Hall from everything from the beginning of this case when he wanted to go to trial immediately and you, you know, said let's take a deep breath and move a little bit more slowly, to the negotiated plea where the government was bound to ask for no more than 30 months. I think that that is outstanding.

So, Mr. Hall, you're lucky, you had a great lawyer.

THE DEFENDANT: I agree.

01:33PM 1 THE COURT: And you should, I think, value the fact
01:33PM 2 that the prosecutor was pretty reasoned --

01:33PM 3 THE DEFENDANT: I like him a lot better than Lenihan.

01:33PM 4 THE COURT: I'm sorry?

01:33PM 5 THE DEFENDANT: I like him a lot better than Lenihan.

01:33PM 6 THE COURT: Yeah. Well, he's a good man. They're
01:33PM 7 all good men. They're all good men. But I'm glad this ended
01:33PM 8 up the way it did, I wish you all the luck in the world,
01:33PM 9 Mr. Hall, and --

01:33PM 10 THE DEFENDANT: Thank you, sir.

01:33PM 11 THE COURT: -- please, don't let me down.

01:33PM 12 THE DEFENDANT: I won't, sir.

01:33PM 13 THE COURT: Don't violate and make me regret what I
01:33PM 14 did today.

01:33PM 15 THE DEFENDANT: No, you won't.

01:33PM 16 THE COURT: Okay. Thank you all, very much.

01:33PM 17 MR. COVERT: I do have one question, Your Honor.

01:33PM 18 As I'm sure Your Honor surmises, he's going to want
01:33PM 19 to reside in Massachusetts and have the parole -- the
01:33PM 20 supervised release transferred there.

01:33PM 21 THE COURT: Yeah, I don't have any problem at all
01:34PM 22 with that. You'll have to work that out with the probation
01:34PM 23 office.

01:34PM 24 Ms. Ferraro, I'm sure you know ways that that can be
01:34PM 25 done?

01:34PM 1 USPO FERRARO: Yes, Your Honor.

01:34PM 2 One more thing from probation. There was two counts,
01:34PM 3 so we'd recommend a \$200 special assessment. I think you said
01:34PM 4 \$100 initially.

01:34PM 5 THE COURT: Oh, I'm sorry. Yes. I apologize that.
01:34PM 6 I just missed that completely. Yes. There's a \$200 -- \$100
01:34PM 7 on each count, for a total of \$200, and I apologize for that.

01:34PM 8 I did impose the sentence concurrent with both --
01:34PM 9 with respect to the time served and with respect to the
01:34PM 10 supervised release, correct?

01:34PM 11 MR. COVERT: Yes.

01:34PM 12 USPO FERRARO: Yes, Your Honor.

01:34PM 13 THE COURT: So I didn't mess that up. Okay, I just
01:34PM 14 missed up the special assessment. Thank you, Ms. Ferraro.
01:34PM 15 You have always have my back. I appreciate that.

01:34PM 16 USPO FERRARO: No problem.

01:34PM 17 MR. COVERT: Thank you, Your Honor.

01:34PM 18 THE COURT: Anything else?

01:34PM 19 MR. FITZSIMMONS: Nothing from the government.

01:34PM 20 THE COURT: Good luck, Mr. Hall.

01:34PM 21 THE DEFENDANT: Thank you, Your Honor.

01:34PM 22 THE CLERK: All rise.

01:34PM 23 (Proceedings concluded at 1:34 p.m.)

01:34PM 24 * * * * *

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CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I
certify that these original notes are a true and correct
record of proceedings in the United States District Court for
the Western District of New York on May 29, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR

Official Court Reporter

U.S.D.C., W.D.N.Y.